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OFFICE OF PETITIONS

In re Application of :
Fisher et al. : DECISION ON APPLICATION
Application No. 10/606,113 : FOR
Filed: June 26, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 038819.52556US:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)," filed June 9, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred twenty-two (122) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **one hundred twenty-two (122) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 18, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On June 9, 2006, applicants timely submitted the instant application for patent term adjustment¹. Applicants dispute the reduction of 216 days associated with the filing of a response to the non-final Office action mailed March 9, 2005 on January 11, 2006. Applicants state that a reply was filed on July 11, 2005, and that the response was resubmitted on January 11, 2006 with a status inquiry. Thus, the reduction for

¹ PALM records indicate that the Issue Payment was filed on August 15, 2006.

this delay pursuant to § 1.704(b) should be 32 days, not 216 days. Further, applicants assert that, given that the response was actually filed on July 11, 2005, a period of adjustment of 188 days pursuant to §§ 1.702(a)(2) and 1.703(a)(2) should be entered for the Office taking until May 18, 2006 respond with the mailing of a Notice of Allowance. In support thereof, applicants submit a copy of their itemized and date-stamped return postcard, acknowledging receipt of the reply in the Office on July 11, 2005.

Applicants state that the application is not subject to a terminal disclaimer.

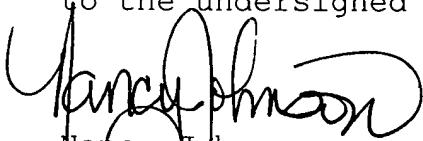
Applicants are correct. The postcard evidence and application history show that the reply is properly considered filed on July 11, 2005. Furthermore, applicants' characterization of the basis for and amounts of the corrections to the adjustments and reductions of patent term in this application given the filing of the reply on July 11, 2005 is correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 122 days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen